(7)

समक्ष माननीय न्यायाधिपति श्रीमान म0 प्र0प्रशासनिक अधिकरण,

खंडपीठ - रायपुर (म0प्र0) OP(S) 3264/09

किशुन प्रसाद डाहिरे वल्द श्री रतन दास
उम्र लगभग 30 वर्ष, पद पशु परिचारक
(स्वच्छाकार) कार्या0 शासकीय पशु -
चिकित्सालय, मुंगेली,
जिला बिलासपुर (म0प्र0) ---- आवेदक

विरुद्ध

1. म0 प्र0 शासन
द्वारा सचिव,
पशु पालन म0 प्र0 शासन,
वल्लभ भवन मंत्रालय, भोपाल (म0प्र0)
2. संचालक,
पशु चिकित्सा सेवाएँ,
म0 प्र0 भोपाल (म0प्र0)
3. उपसंचालक,
पशु चिकित्सा सेवाएँ,
जिला बिलासपुर (म0प्र0)
4. संयुक्त संचालक,
पशु चिकित्सा सेवाएँ,
बिलासपुर संभाग बिलासपुर (म0प्र0)
5. कलेक्टर,
जिला बिलासपुर (म0प्र0) ---- प्र0-1 से 5 तक अनावेदकगण

आवेदन पत्र अन्तर्गत धारा 19 प्रशासनिक अधिकरण अधिनियम 1985.

आवेदक निम्नलिखित कंडिकावार कथन करता है :-

(1) यह कि, आवेदक एवं अनावेदकगण के नाम, पता, पद, उपरोक्तानुसार है।

Signature of Applicant

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HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE SHRI SATISH K. AGNIHOTRI, J.

WRIT PETITION (S.) NO.3264 OF 2005

Petitioner	:	Vishnu Prasad Dahire
	versus	
Respondents	:	State of Madhya Pradesh and others

Present : Mr. Goutam Bhaduri, counsel for the petitioner.
Mr. Ajay Dwivedi, Panel Lawyer for the respondents/State.

ORAL ORDER

(Passed on 28th of July, 2006)

The petitioner was appointed as part-time Peon at Collector's rate by order dated 30-5-1992 (Annexure A-2). The appointment of the petitioner was in accordance with law, as the name of the petitioner along with other candidates were requisitioned from Employment Exchange and the petitioner along with other similarly situated candidates had gone through the process of selection. The name of the petitioner was at Serial No.15 of the Selection-List dated 30-5-1992. The petitioner, after having completed 5 years of service, was granted regular pay-scale of Rs.2550–3200 by order dated 12-5-1999 (Annexure A-7) in accordance with the seniority list of Peons/Paricharaks etc. as on 30-5-1992. The petitioner was

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posted as Paricharak till further orders. Subsequently, by impugned order dated 9-2-2000 (Annexure A-9), the regular pay-scale granted to the petitioner was withdrawn declaring the grant of regular pay-scale as illegal.

2. Mr. Goutam Bhaduri, learned counsel appearing for the petitioner, submits that the appointment of the petitioner was in accordance with the provisions of M.P./C.G. Work Charged and Contingency Paid Employees (Recruitment and Conditions of Service) Rules, 1975 (henceforth 'the Rules, 1975'). Learned counsel further submits that the posts of Chowkidar and Paricharak are Class IV posts under the provisions of the Rules, 1975. A Peon can be posted as Paricharak and a Paricharak can be posted as Peon at the discretion of the Government. It is next contended that withdrawal of the grant of regular pay-scale to the petitioner, who was appointed in accordance with law, meets with civil consequences and it prejudices case of the petitioner if the order is passed without following principles of audi alterem partem, i.e., natural justice and fair play in action.

3. Mr. Ajay Dwivedi, learned Panel Lawyer appearing for the respondents/State, does not dispute the facts and legal submissions made by learned counsel for the petitioner.

4. Having heard learned counsel for the parties and having perused records, it is evident that the impugned order dated 9-2-2000, withdrawing the grant of regular pay-scale to the petitioner, was passed without following principles of natural justice and fair play in action. The

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petitioner was not afforded any opportunity of placing his case before the authorities prior to passing of the impugned order. Thus, the order is vitiated. The order is prejudicial and punitive in nature.

5. The petitioner is accordingly entitled to grant of regular pay-scale from 12-5-1999.

6. For the reasons stated above, the petition is allowed. No order as to costs.

Certified copy as per rules.

Sd/-
Satish K. Agnihotri
Judge